IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN
&
THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH PAUSHA 1928

RP.No. 397 of 2006()

AGAINST THE ORDER IN C.M.APPLN. 557/04 IN LAA.237/2004
.....

REVIEW PETITIONER/RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER SHRI. P.NANDAKUMAR

RESPONDENTS: APPELLANT:

AMMINI, W/O. GEORGE, PLAKKIL HOUSE,
P.O. KANAYANNUR, VIA CHOTTANIKKARA.

BY ADV SHRI. M.P.ABRAHAM

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 03/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.K.DENESAN & V.RAMKUMAR, JJ.

R.P. NO: 397 OF 2006 IN
L.A.A.NO:237 OF 2004

Dated this the 3rd January, 2007.

O R D E R

Denesan, J.

The review petitioner is the respondent in L.A.A. 237/2004. The prayer in the C.M. Application was to condone the delay of 2669 days in filing the appeal.

2. As per the order sought to be reviewed, the delay was condoned. Feeling aggrieved, the respondent in the L.A.A has filed this review petition. It is contended that the delay was condoned without affording an opportunity to the review petitioner to file objections. It is also contended that for condoning the inordinate delay no satisfactory explanation was furnished by the applicant. The above contention is raised on the ground that the affidavit filed by the respondent is evasive and not supported by reliable materials to establish that she was physically indisposed for such a long period.

3. We have heard counsel appearing for the respondent. He has made submissions in support of the order passed in the C.M. Application condoning the delay.

4. From the proceedings before us, it is evident that the C.M.Application was not posted to afford an opportunity

to the respondent/review petitioner to file counter affidavit or objection. The C.M.Application was allowed on the first posting itself. In our opinion this is a valid ground to review the order passed on 10.3.2006 in the C.M.Application. Accordingly the order sought to be reviewed is set aside and the review petition is allowed. Post the C.M.Application for the counter affidavit of the State after one week.

K.K.DENESAN
Judge

V. RAMKUMAR
Judge

jj

K.K.DENESAN & V. RAMKUMAR, JJ.

M.F.A.NO:

JUDGMENT

Dated: